

Amendment No. 2 to SB2095

Crowe
Signature of Sponsor

AMEND Senate Bill No. 2095

House Bill No. 2136

By deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 5, is amended by adding Sections 2 through 3 as a new part thereto.

SECTION 2. The purpose of this bill is to decrease the exposure of children to alcohol and drugs prior to birth and to avoid adverse consequences of any exposures that do occur by:

- (1) Improving access of pregnant women who abuse alcohol or drugs to effective treatment;
- (2) Ensuring that children who were exposed receive appropriate treatment and follow up;
- (3) Using supportive, non-punitive, and confidential approaches to promote the mother's ability to care for her child; and
- (4) Exploring the extent of the problem of prenatal alcohol and drug exposure in Tennessee.

SECTION 3.

(a) The bureau of TennCare and the department of health shall work with health care providers to enhance opportunities for women who are pregnant to receive treatment for addiction to alcohol or controlled substances. The bureau of TennCare, the department of mental health and developmental disabilities, the department of children's services and the department of health shall all work together to ensure that women who are addicted to alcohol or drugs and who have recently given birth will be referred to the appropriate agencies for any necessary services for themselves and their baby.

(b)(1) If a health care provider has reason to believe based on a medical assessment of the mother or an infant that the mother used alcohol or a controlled substance for a nonmedical purpose during the pregnancy and that the infant is suffering from withdrawal from neonatal abstinence syndrome, such health care provider shall comply with the clinical standard of care in deciding whether to administer a confirmatory test, what treatment is needed, and what medical follow up is indicated.

(2) A health care provider who determines, pursuant to this part, that a newborn infant is suffering from neonatal abstinence syndrome shall notify the department of children's services. The department shall assess such child to ensure the child is getting adequate and appropriate services for any issues arising from the en utero exposure to alcohol or controlled substances. The department shall presume that the child should remain with the mother and so shall not intervene to disrupt this relationship in the absence of evidence of actionable abuse or neglect beyond the mother's use of alcohol or drugs. The department of children's services' fundamental assumption is that most children are better off with their own families than in substitute care and that separation has detrimental effects on both parents and children. Wherever possible, preservation of the family should serve as the framework for services, but in any case, the best interest of the child shall be paramount.

(3) A health care provider who makes a report of alcohol or drug abuse as required by subsection (b)(2) shall not be liable in any civil or criminal action that is based solely on such report.

(c) The state will continue to collect pregnancy-related information and monitor trends in reported pregnancy-associated substance exposures.

(d)(1) Except as otherwise provided by law, all information, interviews, reports, statements, memoranda and drug or alcohol test results, written or otherwise, received through a drug or alcohol testing program are confidential communications and may not be used or received in evidence, obtained by discovery or disclosed in any public or private proceedings, except in accordance with this section.

(2) Information on drug or alcohol test results for tests administered pursuant to this part shall not be released or used in any criminal proceeding against the mother of the child who was subject to the test. Information released contrary to this section is inadmissible as evidence in a criminal proceeding.

(3) Except as otherwise provided by law, laboratories, medical review officers, employee assistance programs, drug or alcohol rehabilitation programs and their agents who receive or have access to information concerning drug or alcohol test results shall keep all information confidential. Release of the information under any other circumstance is authorized solely pursuant to a written consent form signed voluntarily by the parent of the infant who is tested, unless the release is compelled by a hearing officer or a court of competent jurisdiction pursuant to an appeal taken under this section. The consent form must contain, at a minimum:

- (A) The name of the person who is authorized to obtain the information;
- (B) The purpose of the disclosure;
- (C) The precise information to be disclosed;
- (D) The duration of the consent; and
- (E) The signature of the person authorizing release of the information.

SECTION 4. This act shall take effect July 1, 2009, the public welfare requiring it.